

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8860 of 1994

with

SPECIAL CIVIL APPLICATION No 8861 of 1994

with

SPECIAL CIVIL APPLICATION No 8862 of 1994

and

SPECIAL CIVIL APPLICATION No 7174 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KESHVLAL KHUSALDAS JADAV

Versus

AHMEDABAD DIST PANCHAYAT

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Appearance:

MR MB GANDHI AND MR RC PATHAK for Petitioners  
MR MUKESH PATEL for Respondents No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

ORAL JUDGEMENT

1. In all these Special Civil Applications, the petitioners have raised a common question of law, and as such, the same are being disposed of by this common order.

2. The petitioners were appointed in the office of the respondents in 1980s i.e. earlier to 1st January, 1988 on different posts. They have been given the appointment on consolidated salary. They are working for years together and all the petitioners are in service for a period of more than ten years by now. Many of them had more than five years service in the year 1988. The State of Gujarat, vide its resolution dated 17th October, 1988, on the basis of the recommendations of the Committee constituted, decided to confer certain benefits to daily wager work-charged or consolidated salary work-charged employees. Those benefits are of the nature that on 1st October, 1988, those daily wager work-charged employees who have completed five years services, shall be given the pay in the regular pay-scale of the post concerned. Those who have completed ten years or more services they have been given the status of permanent employees i.e. further more benefits. It has further been provided that those employees-workmen who have not completed five years services as on 1-10-1988, they will be given the benefit of the resolution i.e. the minimum pay scale of the post concerned with effect from the date on which they complete the five years service after 1-10-1988.

3. The counsel for the petitioners contended that the benefits as conferred under the aforesaid resolution on the Government work-charged employees should have been extended to the daily-wager, consolidated salary work-charged employees of the respondents, and reference has been made to the decision of the Hon'ble Supreme Court in the case of State of Gujarat vs. Ramanlal Keshavlal reported in AIR 1988 SC 161. The counsel for the petitioners contended that Their Lordships of the Supreme Court in the aforesaid case have decided that the employees of the District Panchayat or Nagar Panchayat or Gram Panchayat are the civil servants, and as such, whatever benefits which have been extended to that class or category of person, as provided under the resolution dated 17th October, 1988, should have been extended to the case of the petitioners also.

4. The learned counsel for the respondents No.1 and 2, Shri Mukesh Patel, very fairly submitted that there

may not be any difficulty for the State Government to consider the case of the petitioners - whether the petitioners' case fall under the resolution dated 17th October, 1988, and further whether the petitioners are entitled for the benefits as given to the Government daily rated work-charged employees or not.

5. In view of the aforesaid statement of the A.G.P., I do not consider it appropriate to dwell on any other questions raised in these Special Civil Applications. The counsel for the petitioners also very fairly gave up all other points raised in the Special Civil Applications and they are agreeable that the Government may consider the cases of the petitioners regarding the applicability of the resolution dated 17th October, 1988 in their cases. However, the counsel for the petitioners submitted that a time-bound programme may be fixed so that they may not suffer any further agony.

6. The State of Gujarat is not the party to the petitions. The petitioners are the employees of the District Panchayat who is party to these petitions. These are the matters where instead of approaching to the Court, the petitioners should have first approached to the State Government, and only in case where the State Government decline to give relief or it has sat over the matter for considerable long time, there could have been some justification in the approach of the petitioners to this Court. The nature of the grievance which has been made by the petitioners could have been effectively gone into by the Government. The Government has constituted a Committee for the purpose of resolving the grievances of the daily rated/consolidated salary employees and those recommendations made by the Committee have been given effect to in the form of the resolution dated 17th October, 1988. The petitioners are the employees of the District Panchayat and their grievance that they are entitled for the same benefits which have been extended to the Government employees, is not without substance. These matters have to be decided by the Government, and as such, I consider it to be a fit case where the directions should be issued to the Government, i.e. the Secretary in-charge of the Panchayat Department.

7. These Special Civil Applications are disposed of in the terms that the petitioners may make a representation in respect of their grievance made by them regarding giving them the benefits under the Government resolution dated 17th October, 1988 to the Secretary in-charge of the Panchayat Department. They can file a representation within a period of one month from the date

of receipt of certified copy of this order. On receipt of the representation of the petitioners, the Secretary, Panchayat Department, shall decide the same within three months, and in case he decides that the petitioners are not entitled for the benefits as extended to the Government employees under the resolution dated 17th October, 1988, he shall pass a speaking order and copy of the same may be sent to the petitioners. The interim relief which has been granted by this Court in favour of the petitioners shall continue till the matter is decided by the Secretary, Panchayat Department, as aforesaid. The Special Civil Applications and the Rule stands dispose of in the aforesaid terms with no order as to costs.

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